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SENSITIVE

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E.O. 12958: N/A  
TAGS: [FAIR PTER FR](#)  
SUBJECT: AIR FRANCE ADDRESSES LETTER TO AMBASSADOR ON JULY  
FLIGHT DIVERSION

REFS: A) Paris 4921

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1. (SBU) Summary: In an August 29 letter to Ambassador, Air France CEO Jean-Cyril Spinetta raised a number of concerns about the July 8 diversion of AF flight 50 to Chicago due to the presence of a passenger on the "no-fly" list (reftel). He argues that Air France followed TSA procedures in this case, yet has born substantial costs to its treasury and reputation. A summary of the letter follows in paragraphs 2 and 3, with the text included in paragraph 4. Post intends to respond to the letter based on the points suggested in paragraph 5. End Summary

2. (SBU) Spinetta points out that passenger Abed Khalifeh had a valid US passport, was not on the no-fly list used by AF to screen passengers for this flight, and could not have been matched to selectee list because the entry birthdate did not match. He also notes that Khalifeh was able to return to the U.S. the following day without a problem. Moreover, his reservation had been made over a month before; in spite of the cost to AF, Spinetta believes that U.S. authorities had access to PNR data for over a month yet apparently made no use of information that should have pointed to a problem. All of this indicates the probability of "a mistake by TSA." AF cannot accept repetition of such mistakes, which have occurred several times in the past two years without AF being at fault. He is "particularly surprised" at the disproportionate number of such incidents that have affected AF. They are costly (in this case 368,734 Euros) and are hurting its reputation.

3. (SBU) In addition, Spinetta requests information about how the USG proposes to compensate AF for the "prejudice" it has suffered. He also complains about a TSA press release indicating that AF had boarded a "positive hit," and says AF would like the right to correct the record. He closes by evoking AF's desire to pursue "positive and efficient" cooperation with TSA and CBP; and suggests that a "constructive dialogue" leading to better understanding is necessary. He proposes that contacts both in Washington and Paris be intensified in order to achieve "precise and efficient operational processes" that can avoid such incidents in the future.

4. (SBU) Unofficial translation of Air France Chairman Spinetta's letter:

Mr. Ambassador:

As you have just taken up your functions, I regret bringing up, in my first letter to you, a very disturbing matter for Air France. I nevertheless take the liberty to do so in the hope that you will understand.

On July 8, 2005, AF flight 050 bound for Chicago was refused entry into U.S. airspace in mid-flight. Air France management ordered the flight Captain to return to CDG airport because one of the passengers on board was on the "no fly list," which is regularly furnished to us by U.S. authorities.

This case leads me to provide you with additional information on the way the incident unfolded and on the costs borne by Air France on this occasion.

The passenger in question, Mr. Abed Khalifeh, born on January 1, 1960, was in possession of a passport valid under existing U.S. regulations. He had made the reservations for himself and his family over a month before the flight.

According to existing procedures, the list of passengers of AF flight 050 had been checked against the "no fly list", and no anomaly was or could have been detected since the

family name, first name and date of birth of our passenger were completely different from those of the people on the list.

Furthermore, and contrary to allegations by the TSA, published in the American press as early as July 8, we proceeded in the same manner with the "selectee list," and were unable to identify him as a "selectee" for the same reasons outlined previously (different date of birth, i.e. 1980 instead of 1960).

It is worth noting that Mr. Abed Khalifeh and his family finally flew to Chicago the following day, on our July 9 AF flight 050, without any problem this time.

I will add that Mr. Abed Khalifeh had made reservations on June 3, 2005 on flight AF 050 of July 8, and that no modification in his travel record had taken place between reservation and check-in procedures.

I would further like to point out that as of March 5, 2003, both the CBP and the TSA have access to all the records of Air France passengers traveling from and to the United States.

While the U.S. authorities performed over 2 million transactions on passenger name record (PNR) data concerning Air France passengers during the month of June at a cost to Air France of some 26,000 Euros, and while these same authorities had more than a month to trace the passenger under suspicion, Air France was neither alerted nor informed about him. This obviously raises serious questions about the interest of making our PNR data available, when it is evidently of no particular use, as illustrated in this particular case.

General efforts by Air France to meet U.S. regulatory requirements, and permanent efforts by our staff to improve our responsiveness in cooperation with U.S. authorities, should have prevented such an incident, which would appear to originate in an error by the TSA.

Air France cannot possibly accept that such errors be repeated, since for almost two years many of our flights to the U.S. have been similarly disrupted, without any known error on our part. I would further like to note that it is particularly surprising that Air France flights represent such an important part -- almost half -- of all commercial flights to the U.S., either cancelled, re-routed or banned.

Finally, the impact of this case, in terms of financial costs and bad publicity, cannot be ignored.

As you may know, turning a commercial aircraft around produces additional costs, related to the replacement of the crew in accordance with the French Civil Aviation Code, aircraft assistance, fees, compensation to passengers, financial losses, flight delays affecting subsequent flights. The decision to turn around this flight has cost us 368,734 Euros. We would greatly appreciate knowing what U.S. authorities intend to do to compensate Air France for the financial prejudice incurred.

Furthermore, the cost of such an operation on Air France's image is considerable. Although it is normally accepted that no comment related to this type of event should ever be relayed to the media, the TSA published a press release asserting that "a passenger of the federal no fly list had been authorized to board the Air France flight to Chicago, that this time it was a positive hit," which greatly altered the image of the company.

Even though part of the press in the U.S. reported the TSA's mistake, Air France believes it should enjoy a right to correct the record, in order to polish its tarnished image in the U.S.

You are familiar with the difficulties encountered by all carriers over the past few years to meet growing operating costs, resulting from the oil price hike, as well as safety and security-related expenses. While we remain convinced of the need to continue together our fight against the scourge of the 21st century we know as terrorism with the utmost energy, we cannot allow the commercial activities of Air France to be periodically disturbed by decisions that do not appear to be fully justified. The frequent and repetitive nature of these incidents is extremely detrimental to us in most of our markets.

At Air France, we have always endeavored to make our cooperation with the CBP and the TSA as positive and efficient as possible. It has however become more and more evident that a constructive dialogue aimed at a greater mutual understanding needs to be established.

My colleagues have met many times with U.S. officials in Washington as well as in Paris. These meetings were

designed to convey as clearly as possible the daily problems we encountered. I would like to propose a rapid increase in the number of these working sessions to achieve the establishment of precise and efficient operational procedures, which will in turn prevent any further such incident from occurring.

Supervised by competent French authorities for almost four years now, Air France has made efforts to follow all the successive requests of the U.S. Administration relating to security, as swiftly and efficiently as possible. We respected the spirit and the letter, in a climate of trust backed-up by substantial investment. I do not want to see these efforts compromised by inadequate and costly decisions.

Complimentary closing.

**15. (SBU) Proposed points for use in reply:**

--We understand the concerns expressed in your letter. Air France is a valued business partner of the United States and an important participant in the fight against terrorism.

--We have never sought to place blame on Air France for this incident. It is inevitable that at times last-minute information leads to airlines not possessing the latest version of the list, which is updated several times daily. The passenger in question was added to the No-Fly list late on July 6 based on information developed in the days immediately preceding the flight. After subsequent evaluation of all the information pertaining to him, he was downgraded to a selectee the following day and permitted to fly home.

--We recognize the particular burden that has fallen on Air France due to repeated flight diversions, and want to do everything we can to avoid them in the future. In a few cases these were the product of unfortunate circumstances that placed suspicion on travelers that later proved to be unnecessary. In other cases however we would point out that lack of notification by Air France led to flights being diverted. For that reason, we are concerned that Air France's inability to implement the Selectee Emergency Amendment (EA) without French Government approval may increase the risk of future diversions. We would like to work with you to ensure that full application of TSA security procedures, including particularly Selectee and Master Crew Lists, helps minimize the risk of flight diversions in the future.

--We share your desire for closer cooperation in order to improve security procedures and diminish the risk of future flight diversions. TSA has provided additional support to assist Air France with this, and we encourage you to contact Embassy representatives whenever you have questions about required procedures or need to resolve ambiguities about whether passengers names are on our watch lists. This will permit us to better understand Air France's operating procedures and particular concerns, and we are hopeful that it will help us to develop solutions that meet the needs of all concerned.